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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,598	10/31/2003	Brent Pipal	MSI-1670US	1651
22801	7590	09/22/2008		
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201				
EXAMINER				
HOMAYOUNMEHR, FARID				
ART UNIT		PAPER NUMBER		
2139				
MAIL DATE		DELIVERY MODE		
09/22/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/698,598

**Applicant(s)**

PIPAL ET AL.

**Examiner**

Farid Homayounmehr

**Art Unit**

2139

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11, 13-33 and 35-40 is/are pending in the application.
- 4a) Of the above claim(s) 1-9, 19-32 and 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10, 11, 13-18, 33, 35-38 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is responsive to communications: application, filed 10/31/2003; amendment filed 6/23/2008.
2. Claims 10, 11, 13-18, 33, 35-38, and 40 are pending in the case. Claims 1-9, 19-32, and 39 are withdrawn from consideration. Claims 12 and 34 are cancelled by the applicant.

### ***Response to Arguments***

3. Applicant's argument relative rejections under section 102 and 103 are moot in view of the new grounds of rejection reflected in the following.

### ***Election/Restrictions***

4. Amended claims 24-28, and 39 are directed to an invention that is independent or distinct from the invention originally claimed. As indicated in the Office Action dated 3/30/2007, claims drawn to resource access control by identifying and verifying the entity, process, or mechanism requesting access to the resource are distinct from the claims elected in this application, which constitutes the originally claimed invention. Note that amended claims 24-28, and 39 are now directed to denying write access

privileges, which is substantially the same as claims 1-9, 19-23, 29-32 discussed in Office Action dated 3/30/2007, and therefore are distinct from the originally presented claims.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 24-28 and 39 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Note that claims 1-9, 19-23, 29-32 were withdrawn previously.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10, 11, 13, 16-18, 33, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kester (US Patent No. 7,185,015, filed March 14, 2003), hereinafter called Kester, in view of Kottapurath et al. (US Patent No. 6,533,490, filed June 30, 1997), hereinafter called Kot.

Kester teaches detecting the launch of an application on a workstation (col. 4 lines 24-30) by a workstation management module, and determining access privileges of the workstation or the user. This determination is based on the application attributes, one of which is the version of the application (a hash, which identifies the application, is generated. One of the identifiers is the version of the application, as shown in col. 4 lines 42-52). The access privileges are determined based on an operating policy (col. 5 lines 25-30), and if the policy does not allow the execution of the identified application, the execution is denied (col. 5 lines 30-39). Kester in view of Kot teaches the limitations of claims detailed as follows:

6.1. As per claim 10, Kester is directed to a method comprising: determining a current version of program code (col. 4 lines 48-53, where the version of an application (program code) is determined as a property of the application) satisfying an operating policy (col. 5 lines 25-30, where the policy corresponding to the application is also identified); denying the launch of program code on a client when the client version of the program code on the client is different from the current version of program code satisfying the operating policy (col. 5 lines 33-35, where the execution is denied if the policy does not allow it. Therefore, if the policy associated with the version of the launched program does not allow its execution, it won't be executed, and if the policy associated with the version allows execution, it will be executed. Therefore, the program version that is different than the version allowed to be executed, will not be executed.).

Kester teaches determining a client version of program code during launch of the program (col. 4, lines 42-43). Kester also teaches taking an action when the current version of the program does not match the client version based on a policy, but it does not explicitly teach a policy that requires updating the client program with the current version of the program, or determining a client version of program code during launch of the program.

Kot col. 1 lines 38 to 68 teaches determining the version of the client program, comparing it with the current version stored on a server, and when they versions are different, uploading the current version on the client to replace the client version.

Kester and Kot are analogous art as they are both directed to managing applications software running on client devices of a network. At the time of invention, it would have been obvious to the one skilled in art to improve the system of Kester to include a policy that requires software updating once it is determined that the client version is old (not matching the current version) as taught by Kot. The motivation to do so would have been to improve software management by assuring that all clients run the current software version.

6.2. As per claim 11, Kester in view of Kot is directed to the method of claim 10, further comprising executing the program code on the client when the version of

program code on the client corresponds to the version of program code satisfying the operating policy (see response to claim 1, or Kot Fig. 3 and associated text).

6.3. As per claim 13, Kester in view of Kot is directed to the method of claim 10, further comprising receiving the operating policy at the client (Kester col. 5 lines 4-9. Note that per Fig. 2, the workstation management module is part of the workstation).

6.4. As per claim 16, Kester in view of Kot is directed to the method of claim 10, further comprising notifying a user at the client if the version of program code on the client is different from the version of program code satisfying the operating policy (Kester col. 5, lines 47-62).

6.5. As per claim 17, Kester in view of Kot is directed to the method of claim 10, further comprising notifying a network administrator if the version of program code on the client is different from the version of program code satisfying the operating policy (Kester col. 15, lines 32-60).

6.6. As per claim 18, Kester in view of Kot is directed to the method of claim 10, further comprising recording in a log if the version of program code on the client is different from the version of program code satisfying the operating policy (Kester col. 13, lines 4-21).

6.7. Limitations of claims 33 and 35 are substantially the same as claims 10-13, and 16-18 above.

7. Claims 14-15, 36-38 and 40 rejected under 35 U.S.C. 103(a) as being unpatentable over Kester in view of Kot, and further in view of Examiner Official Notice.

7.1. As per claim 14, Kester in view of Kot is directed to the method of claim 10, further comprising writing the version of program code on the client to a cache and then reading the cache while the program code is loading (col. 13, lines 4-21 teaches logging that an application is allowed for execution. Examiner takes the official notice that caching to speed up a decision process was well-known in the art. Therefore, Kester's teaching of logging the execution allowed application, and the official notice make caching and reading the cache while program is running to speed up decision making to execute the program obvious.

7.2. As per claim 15, Kester in view of Kot is directed to the method of claim 10, wherein updating the program code on the client includes transmitting at least one patch or service pack to the client station (as shown in claim 1, Kester in view of Kot teaches updating the client software by downloading the current version of the software. The service pack is a portion of software that updates the downloaded software. Therefore, Kester in view of Kot makes it obvious to download a service pack to client software, because it is important to update the software as readily shown by Kester in view of Kot. In addition, Examiner takes Official Notice that uploading service packs or patches to



update a software application was well-known in the art, and therefore obvious to do to the one skilled in art.)

7.3. Limitation of claim 36 are substantially the same as claim 15, with the added limitation that the patch includes information about the patch and an acceptance option for installing the patch. However, patches typically include information about the version of the patch and acceptance option was a well-known feature of patches in the art at the time of invention.

7.4. As per claim 37, Kester in view of Kot is direct to the method of claim 15. In addition, when the installation of a software requires rebooting the system, the client is notified that the system needs to be rebooted to make installations in effect. Note that Kot fig. 3 and associated text teaches rebooting the system after the new version of the software is downloaded. Therefore, Kester in view of Kot teaches notifying the client prior to installation of the software.

7.5 Limitations of claims 38 and 40 are substantially the same as claims 15 above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farid Homayounmehr whose telephone number is 571

272 3739. The examiner can normally be reached on 9 hrs Mon-Fri, off Monday biweekly.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Farid Homayounmehr

Examiner

Art Unit: 2139

/Kristine Kincaid/

Supervisory Patent Examiner, Art Unit 2139